UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
DAYTON

Luz Munoz **Plaintiff** **v.** **Rushmore Management Loan Services LLC** **c/o Terry Smith, Chief Executive Officer** **15480 Laguna Canyon Road, Suite 100,** **Irvine, California 92618** **Banc of California, Inc** **c/o Steven A. Sugarman, Chief Executive Officer** **18500 Von Arman Avenue, Suite 1100** **Irvine, California 92612** **Defendants**	**CASE NO.** **JUDGE:** **COMPLAINT** **JURY TRIAL DEMAND**

Plaintiff, Luz Munoz, ("Plaintiff") by and through the undersigned counsel, brings this complaint against Rushmore Management Loan Services LLC ("Rushmore") and Banc of California Inc.("BCI"). Rushmore was a responsible servicer for the prior investor and owner of Plaintiff's loan modification ("Loan Mod"), BCI, for a mortgage loan ("Loan") on Plaintiff's residence at 3955 Klepinger Road, Dayton, Ohio 45416 ("The Property"). Plaintiff asserts claims against Rushmore and BCI for defamation, breach of a contract settlement agreement ("Settlement") and breach of the implied covenant of good faith and fair dealing against Rushmore and BCI. Plaintiff asserts further claims against Rushmore for servicing practices that are violations of several provisions of the Fair Debt Collection Practices Act ("FDCPA") (15 U.S.C. §1691 et. seq.); violations of 15 U.S.C. §2605(e) of the Real Estate Settlement and Procedures Act ("RESPA") and implementing Regulation X, 12 CFR §1024; and violation of the

Truth in Lending Act ("TILA") 15 U.S.C. §1601 et. seq. and implementing Regulation Z, 12 CFR §1026. Rushmore failed to resolve disputed servicing errors on the Loan and Loan Mod prior to transferring the servicing of the Loan to a new servicer Select Portfolio Servicing Inc. as will be further be set forth in the Complaint and BCI failed to have its servicing agent make those corrections.. In addition the negligent and non-compliant servicing of mortgage loans such as Plaintiffs is identified as a pattern and practice of Rushmore as will be further set forth herein.

PARTIES

1. Luz Munoz ("Plaintiff" or "Debtor") is a person and the Debtor in the Chapter 13 proceeding who resides at 3955 Klepinger Road, Dayton Ohio 45416 with a mailing address of P.O, Box 26432, Dayton, Ohio 45426.
2. Defendant Rushmore is a mortgage loan servicer and a foreign corporation incorporated in the State of Delaware and doing business in the State of Ohio who acquired the servicing of the Loan in 2012 prior to assigning the servicing. Its headquarters is located at 14480 Laguna Canyon Road, Suite 100, Irvine, California 92618 and which is a
3. Banc of California, Inc. is an investor and financial holding institution and foreign corporation incorporated in the State of Maryland who was the owner and holder of the Loan while Rushmore was servicing the Loan. Its headquarters and address 18500 Von Arman Avenue, Suite 1100, Irvine, California 92612.

JURISDICTIONAL AND VENUE STATEMENT

4. Jurisdiction of this Court exists pursuant to 15 U.S.C. §1691 et. seq of the FDCPA; 15 U.S.C. §2605(e) of RESPA; 15 U.S.C. §1601 et. seq; 28 U.S.C. §1367 for pendent and

related state claims; and 28 U.S.C. §1332(a). Declaratory Judgment authority applies under 28 U.S.C. §2201.

5. Venue lies in this District pursuant to 28 U.S.C. §1391(b) and (d).

FACTS

6. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs.

7. On March 15, 2012, Plaintiff filed an Adversary Complaint in Plaintiff's reopened bankruptcy case in the U.S. Bankruptcy Court in the Southern District of Ohio, Dayton, Bk Case 3:05-34522, ("Adversary'') against Quantum Mortgage Servicing ("Quantum") the servicer and Arch Bay Holdings LLC, the entity then listed as the owner of the Loan on that date.

8. The Adversary was filed by Plaintiff because Quantum had pursued collection of alleged delinquent mortgage loan payments that by the bankruptcy Court's order, filed on August 4, 2010 (Case Docket 99), were deemed to be current at the time of Debtor's bankruptcy discharge on August 27, 2010 (Case Docket 106).

9. Subsequent to the filing of Adversary, on April 1, 2012 Plaintiff entered into a settlement with Quantum and Arch Bay which agreed settlement was referenced by Court's order of dismissal of the Adversary on May 1, 2012. (Adversary, Docket 6)

10. The Settlement terms apply to all subsequent assignees and agents or representatives of assignees of the Loan which includes Rushmore and BCI.

11. A provision of the Settlement included terms also listed in the Loan Mod which included the following provision regarding the agreed upon loan balance:

> As of, **MARCH 1, 2012**, the amount payable under the Note and the Security Instrument (the "Unpaid Principal Balance") is U.S. **$66,150.00**, **consisting** of the unpaid amount(s) loaned to Borrower by Lender **plus any interest and other amounts capitalized**.[emphasis added]

Settlement, Paragraph1, Exhibit A.

12. A further provision of the Settlement (Paragraph W) provides that its terms shall be binding on and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, agents, representatives, successors, and assignees. (See Settlement, Adversary- Exhibit A).

13. Another provision of the Settlement (Paragraph P) provides for a prevailing party having to enforce the Settlement to collect the cost of enforcing the agreement. (Exhibit A)

14. The Settlement also established a monthly Loan payment of $717.90 effective November 2011. (Paragraph 2 of Exhibit A)

15. In August 2012, Quantum transferred the servicing of the Loan to Rushmore with ownership of the Loan by BAC.

16. On or about December 2012 Rushmore was contacted by Plaintiff's attorney regarding incorrect information Rushmore was providing to the Plaintiff regarding the Loan Mod account balance; inaccurate reporting of late payments by Plaintiff on the Loan in 2012 after transfer of the account to Rushmore for servicing; and incorrectly reporting a delinquent escrow account balances and alleged corporate advance amounts still owed on the Loan.

17. Rushmore's notices to Plaintiff in late 2012 stated that Rushmore considered Plaintiff's loan to be in a delinquent status when it acquired servicing of the Loan.

18. On January 17, 2013 (incorrectly dated January 17, 2012), Rushmore responded to Plaintiff's attorney December 2012 inquiry regarding Loan account errors with a response

by Valerie Villanueva ("Villanueva") with Loan account information, including a payment history as of September 4, 2012, listing the following:

a. A principal balance of the Loan based on the Loan Mod amount of $66,150.

b. An escrow balance as $0

c. No corporate advance or other amounts owed

d. Plaintiff's January1, 2015 payment was not showing as having been received by Rushmore.

(Rushmore Letter of January 17, 2013 with Pay History- Exhibit B).

19. Despite Rushmore's representations as set forth in the preceding paragraph, a Rushmore's letter dated June 18, 2013 to Plaintiff stated it still regarded the Loan as delinquent with an intent to default ("Notice of Default") of the Loan and that payments being made by Plaintiff were placed in suspense.

20. Rushmore's June 18, letter also demanded a payment of $1,289.18 was Rushmore further stated that a balance of $2,140.58 was owed on the Loan to bring it current. Rushmore did not identify any corporate advances owed on the Loan with this notice and did not detail or explain the reason for the payment balance allegedly owed.

21. Previous to Plaintiff's receiving the Rushmore Notice of Default of June 18, and also in July and August 2013, Plaintiff's attorney communicated with Rushmore's Villanueva by a series of emails and letter advising Rushmore that:

a. The escrow account continued to be in error since no balance was transferred on the Loan from the prior servicer Quantum in October 2012 although Plaintiff's loan payments since April 2012 had included escrow payments;

b. Documentation by copies of checks to Rushmore that Plaintiff had made all required payments on the loan and that she had not missed any loan payments.

c. That Rushmore should not be listing the Loan in bankruptcy as Plaintiff had received her discharge and the reopened bankruptcy case had been closed in May 2012 with the Settlement in the Adversary.

d. That there was a possible deficiency payment for delinquent property taxes that Rushmore stated it had paid when Rushmore acquired the servicing of the Loan in October 2012 that could have affected the escrow account balance.

e. That the Settlement provided for Plaintiff to pay the delinquent property tax and that Rushmore had improperly paid those delinquent taxes.

f. That the monthly escrow account requirement may have increased slightly in April-May 2013 without Plaintiff's knowledge so that the monthly Loan payment might have to be increased.

g. Asking Rushmore to contact Plaintiff's attorney to identify the alleged shortage regarding any escrow account payments so that Plaintiff could bring the escrow account current within the next 12 months despite Rushmore's failure to honor the Settlement for Plaintiff to pay those taxes.

22. Rushmore's first response to Plaintiff's communications regarding errors with the Loan account in August 2013 was to request documentation to confirm monthly Loan payments by Plaintiff in 2013 which Plaintiff provided to Rushmore in August 2013.

23. Rushmore never responded to Plaintiff or Plaintiff's attorney regarding the request to resolve the discrepancy or shortage in the Loan escrow account as requested in August 2013.

24. From August 2014 until August 2015, Plaintiff continued to make her monthly payments on the Loan to Rushmore believing that she was current on the payments for the Loan and that there were no delinquent escrow or other charges or fees on the Loan account.

25. In September 2015, Plaintiff elected to contact Rushmore directly to obtain a payoff for the Loan because of her concern about Rushmore's inaccurate management and servicing of the Loan over the previous two years.

26. In response to Plaintiff's request for a payoff of the Loan Rushmore provided Plaintiff with a payoff statement dated October 8, 2015 which statement listed the following amounts as allegedly owed on the Loan:

a.	Principal balance	$48,978,18
b.	Escrow overdraft owed	2,200.69
c.	Late Charges	573.03
d.	Corporate Advances	8,475.24
e.	Property Inspection Fees	16.50
f.	Interest thru Oct 31, 2015	573.03

(Rushmore letter dated October 8, 2015, Exhibit C)

27. Plaintiff requested a correction of the amounts Rushmore alleged was owed by sending a Notice of Error letter regarding the Loan, dated October 21, 2015, noting that the payoff statement was in error as regards the alleged amounts owed as there should be no escrow overdrafts; that there were no corporate advances owed based on the terms of the Loan Mod and Settlment and that late charges and property inspection fees should not have been assessed on the account. (Exhibit D- Notice of Error Letter dated October 21, 2015).

28. Plaintiff also contacted Rushmore by letter dated October 29, 2015 regarding the payoff statement amounts and specifically advised Rushmore of the same errors as set forth in the

October 21, 2015 letter with a request to correct the payoff amount so that Plaintiff could pay off the loan.

29. The notice of error was sent to Rushmore pursuant to the Consumer Financial Protection ("CFPB") regulations set forth in 12 CFR 1024.35 and .41.

30. Rushmore failed to provide any meaningful response to either of the Plaintiff's October 2015 letters until it replied to Plaintiff's attorney by a letter dated January 19, 2016.

31. The Rushmore January 19, 2016 response received by Plaintiff on or about February 2, 2016 failed to acknowledge or correct any errors identified by Plaintiff in her Notice of Error and was issued by Rushmore more than 85 days after Rushmore's receipt of the Notice of Error and received by Plaintiff more than 99 days after the notice of error was received by Rushmore.

32. Under the provisions of 12 CFR 1024.35(e)(1) and (3), a servicer is to correct errors on accounts it services or explain why there were no errors and to respond to the borrower within 30 days after receipt of the Notice of Error and under 15 U.S.C. 2605(e) within 60 days of the borrowers inquiry.

33. Rushmore, despite having notice of disputes by Plaintiff regarding the Loan in October 2015; knowledge of the terms of the Loan Mod; and knowledge of the Settlement, continued to consider the Loan as delinquent by sending Plaintiff a form letter dated November 9, 2015 stating that the Loan was delinquent.

34. Rushmore further Plaintiff in a letter dated November 17, 2015 advising her that they would foreclose on her home unless a payment of $2,519 was made.

35. Plaintiff disputed Rushmore's assertion of default by a letter dated December 4, 2015 which also noted the numerous errors listed in the October 2015 letters to Rushmore as to Rushmore negligent servicing the Loan.

36. The Rushmore response of January 19, 2016, while acknowledging the existence of the Loan Mod, failed to correct any errors and continued to assert that all fees and charges set forth in the payoff statement of October 9, 2015 were owed by Plaintiff, including the Corporate Advances of $8,475.24 as referenced in Complaint Paragraph 26. (Rushmore letter dated January 19, 2016- Exhibit E)

37. A Rushmore letter dated January 14, 2016 (5 days **before** Rushmore's January 19, 2016 letter) was received by Plaintiff approximately on January 25, 2016, which stated that Rushmore was transferring the servicing of the Loan to SPS allegedly effective January 29, 2016.

38. Prior receipt of the Rushmore notice of transfer of the Loan to SPS, Plaintiff on January 29, 2016, clarified non-payment issues raised by Rushmore for August and September 2015 payments on the Loan which Rushmore alleged were not made which payment was returned to Plaintiff.

39. Plaintiff sought to resolve the payment issues regarding the August and September 2015 monthly Loan payments by confirming the checks were not cashed with her bank and making the payments again ("Replacement Payments") for the earlier payments. Plaintiff included her documentation of the earlier payments with the Replacement Payments.

40. On Plaintiff's best knowledge and belief Plaintiff made the August and September 2015 payments and Rushmore never cashed or returned the checks for those payments.

41. As of the date of the filing of this complaint, Rushmore has failed to credit the Loan account or provide SPS with the Replacement Payments.

42. Plaintiff on her best knowledge and belief has made all required loan payments of principal and interest for the Loan Mod when Rushmore was servicing the Loan and BCI was the owner of the Loan.

43. Because of Rushmore's failure to comply with the terms of the Loan Mod and Settlement she had to make additional payments to SPS and incur attorney fees and cost to rectify the Loan account with SPS so the Loan would be reported as current by SPS.

44. On Plaintiff's best knowledge and belief the alleged missing monthly payments, late fee charges and negative escrow balances were caused by Rushmore and BCI's failure to correctly account for the terms of the Loan Mod and Settlement and Defendants' negligent accounting and servicing for the Loan from December 2012 until February 2016.

45. On Plaintiff's best knowledge and belief Rushmore's servicing errors are not limited to Plaintiff's Loan but reflect a consistent and troubling pattern and practice of mismanagement, negligence and non-compliance with servicing standards as prescribed by 12 CFR § 1024.35 and the Real Estate Settlement and Procedures Act ("RESPA") requirements of 12 U.S.C.A. § 2605(e), which non-compliance has persisted for more than 3 years.

46. The negligent mortgage servicing and loss mitigation practices of Rushmore are not isolated to Plaintiff' Loan.

47. The Consumer Financial Protection Bureau ("CFPB") has also received more than a hundred complaints from consumers regarding Rushmore's mortgage servicing and loss mitigation practices related to this action and the claims before the Court. These complaints

are publically available on the CFPB's website at: http://www.consumerfinance.gov/complaintdatabase/.

48. Upon Plaintiff's best information and belief, based upon the experiences of the Plaintiff, as described *supra*, and those described by consumers to the CFPB as described in the preceding paragraph and the following public facts and allegations, it is apparent that Rushmore has a pattern and practice of noncompliance with the provisions of the Real Estate Settlement and Procedures Act ("RESPA") requirements of 12 U.S.C.A. § 2605 for borrowers like the Plaintiff.

a. The well pled allegations relied upon by the court in *Bennett v. Bank of Am., N.A.*, No. CV 15-30-ART, --- F.Supp.3d ----, 2015 WL 5063271 (E.D. Ky. Aug. 26, 2015), which concluded that the plaintiff had identified sufficient facts to demonstrate violations of 12 U.S.C. § 2605 by Rushmore.

b. The allegations identified in the complaint filed in *Lindsey v. Rushmore Loan Management Services, LLC.*, No. CIV.A. 8:15-cv-1031 pending in the U.S. Dist. Ct. for the Dist. Of Md. related to 12 U.S.C. § 2605 violations by Rushmore.

c. The allegations identified in the complaint filed in *Altmann v. Rushmore Loan Management Services, LLC.*, No. CIV.A.1:15-cv-880. pending in the U.S. Dist. Ct. for the Eastern Dist. of California related to 12 U.S.C. § 2605 violations by Rushmore

d. The allegations identified in the complaint filed in *Williams v. Rushmore*, 3:15-cv-00673, currently pending in the U.S. Dist. Ct., Dist. of Connecticut related to servicing errors in violation of 15 U.S.C. §1692, Fair Debt Collection Practices Act ("FDCPA").

49. Subsequent to Plaintiff's Chapter 13 bankruptcy discharge order and the disposition of the Adversary by court order Plaintiff was current on the Loan as reflected in the Settlement.

50. All of the communications by Rushmore to Defendant demanding payment on the Loan asserted the Loan as delinquent subsequent to the assignment of servicing of the Loan to

Rushmore and Rushmore's notices were attempts to collect a debt and not mere attempts to enforce the mortgage holder's *in rem* rights to foreclose.

51. Rushmore regularly attempts to collect on debts from mortgage loan borrowers that are not owed and that are current which actions are false representations of the character, amount, or legal status of the mortgage loan debt.

52. At all material times herein, Plaintiff's debt were consumer debts as defined by the FDCPA, 15 U.S.C.A. § 1692a (5).

53. At all material times herein, Plaintiff was a "consumer" as defined by the FDCPA, 15 U.S.C.A. § 1692a (3).

54. At all material times herein, Rushmore was a "debt collector" as defined by 15 U.S.C.A. § 1692a(6) since when Rushmore acquired the Loan for servicing it stated that the Loan debt was delinquent and continued to assert the Loan as delinquent in communication to the Plaintiff and to the successor servicer SPS at least thru the February 2016.

55. At all material times herein, Rushmore knew or should have known that the debt it was attempting to collect from the Plaintiff was current.

56. Each delinquency or any billing statement sent by Rushmore is a "communication" as that term is defined by 15 U.S.C. § 1692a (2).

57. The Notice of Foreclosure is a "communication" as is the Notice of Default.

58. On Plaintiff's best knowledge and belief, Rushmore has been reporting the Loan as delinquent or late to credit bureaus since August 2012 and had failed to make the correction to show the Loan as current as repeatedly requested by Plaintiff or by Plaintiff's attorney until sometime in mid-year of 2016.

59. The continued mishandling of the payments and accounting by Rushmore of Plaintiff's account for the Loan and threats of default;foreclosure; assertions of delinquent payments and failure to comply with the Settlement has caused her extreme anxiety and constant worry about her losing her home that has been a concern to Plaintiff for the past three years.

60. Plaintiff has incurred medical treatment and costs for high blood pressure, a medical condition that has resurfaced as a result of the stress she has had to endure in dealing with continued threats of default and foreclosure actions by Rushmore and having to correct the errors by Rushmore when she had to make additional payments to SPS when Rushmore failed to forward payments to SPS or return them to Plaintiff..

61. Plaintiff also incurred additional cost to document Loan payments by certified mail to Rushmore over a period of two years because of Rushmore's negligent management of the Loan account and misapplication or failure to account for payments to the Loan account.

62. Plaintiff has further been forced to incur fees and costs of an attorney in her attempt to repeatedly request Rushmore to correct servicing errors for the Loan since October 2012 thru February 2016 and to correct the Loan account with SPS because of Rushmore errors subsequent to the transfer of the servicing to SPS.

CAUSES OF ACTION

FIRST CLAIM – DEFAMATION

63. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs. This claim is asserted against Rushmore and BCI.

64. Rushmore maliciously defamed the Plaintiff by its knowing publication to third-parties of erroneous information that the Plaintiff's loan was in default and public humiliation of Plaintiff.

65. BCI, as the principal retaining Rushmore as servicing agent, is responsible for the actions of Rushmore in defaming Plaintiff.

66. Rushmore had actual knowledge of the false and fraudulent nature of such information due to the repeated correspondence between Plaintiff and Plaintiff's attorney and Rushmore representatives regarding the inaccurate Loan balance information.

67. BCI had constructive knowledge of the false and fraudulent nature of such information as the principal retaining Rushmore as servicing agent for the Loan.

68. Rushmore had actual knowledge of the false and fraudulent nature of such information and published it despite having such knowledge.

69. Rushmore's actual knowledge of the falsity and reckless disregard for the truth and BCI's constructive knowledge, demonstrates malice, gross negligence and/or willful intent to injure the Plaintiff.

70. The failure of Rushmore to credit payments received from Plaintiff and to report the proper status of the loan has had a negative effect on Plaintiff's credit.

71. The untrue representations of Defendant Rushmore had the effect of publishing to the credit bureaus, financial institutions and the community at large that Plaintiff had not made payments she was required to make, when in fact Plaintiff had made such payments.

72. By its defamatory action, Defendant Rushmore and BCI caused considerable emotional distress and embarrassment to Plaintiff for which she is entitled to compensatory and punitive damages.

SECOND CLAIM – BREACH OF CONTRACT-VIOLATION OF SETTLEMENT AND LOAN MOD

73. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs. This claim is asserted against Rushmore and BCI.

74. Defendant Rushmore breached the terms of the mortgage contract by failing to credit timely payments made by Plaintiff and by erroneously reporting that the Loan was delinquent when it was in fact current.

75. The failure of Defendant Rushmore to comply with its contractual obligations under the terms of the mortgage and negligently assessing excessive escrow charges, inspection fees and late fees constitutes a breach of the contract terms and conditions of the Loan Mod and the Loan.

76. Defendant Rushmore had full knowledge that Plaintiff had received a discharge from her Chapter 13 plan, was making timely payments and was current on her loan and that there were no corporate advances to be carried on the Loan with the Loan Mod agreement as early as January 17, 2013.

77. Defendant Rushmore had full knowledge of the Settlement terms which included the Loan Mod and failed to comply with those terms.

78. Rushmore is liable for breach of the Settlement and Loan Mod.

79. Defendant BCI employed Rushmore as its servicing agent.

80. Defendant BCI knew or should have known of the Settlement and Loan Mod terms and bhe breach of those terms by Rushmore.

81. Defendant BCI is liable for the breach of contract by its agent Rushmore.

82. The failure of Defendants Rushmore and BCI to comply with its contractual obligations of the Loan Mod and the Settlement resulted in damages to the Plaintiff to which Plaintiff is entitled to relief.

THIRD CLAIM – BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING

83. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs. This claim is asserted against Rushmore and BCI.
84. Defendant Rushmore's willful failure to credit payments made by Plaintiff's and its subsequent erroneous credit reporting constitutes a breach of the implied covenant of good faith and fair dealing.
85. Rushmore, as the servicer of Plaintiff's loan since August 2012 until January 29, 2016 and as an accountable servicer for the Loan to SPS thru February 2016, had full knowledge of Loan Mod and Settlement as early as October 2012 but continued to report the loan as delinquent and has repetitively failed to acknowledge Debtor's timely payments on the Loan and continuing to attempt to collect the corporate advances that were included as part of the Loan Mod principal in the 2012 Loan Mod and Settlement.
86. Defendant BCI employed Rushmore as its servicing agent.
87. Defendant BCI knew or should have known of the lack of good faith and fair dealing by Rushmore.
88. Rushmore and BCI knew the terms of the Loan Mod and Settlement.
89. Defendant Rushmore is liable for the lack of good faith and fair dealing.
90. Defendant BCI is liable for the lack of good faith and fair dealing by its agent Rushmore.
91. The lack of good faith and fair dealing by Defendants Rushmore and BCI resulted in damages to the Plaintiff to which Plaintiff is entitled to relief.
92. Plaintiff is entitled to attorney fees and costs and punitive damages for Defendant Rushmore and BCI breach of the implied covenant of good faith and fair dealing.

FOURTH CLAIM – VIOLATIONS FAIR DEBT COLLECTION PRACTICES ACT

93. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs. This claim is asserted against Rushmore.

94. Defendant Rushmore violated the Fair Debt Collection Practices Act ("FDCPA"). Defendant's violations include, but are not limited to, the following:

   a. When Rushmore acquired the Loan for servicing, it considered the Loan to be in a delinquent status.
   b. Defendant Rushmore's false representation of the legal status of Debtor's mortgage as delinquent when in reality Debtor was current on the mortgage is a violation of the FDCPA under 15 U.S.C. § 1692e(2)(A).
   c. Defendant Rushmore's unlawful and repeated attempts to collect a corporate advance charge of more than $8500 on Debtor's mortgage that is not owed is inaccurate and a violation of the FDCPA under 15 U.S.C. § 1692f(1).
   d. Defendant Rushmore and SPS failure to cease collection of a disputed debt; failure to obtain verification of the status of the disputed debt; ignoring documentation showing Plaintiff was not delinquent or in default on the Loan; and continued reporting of the disputed debt as delinquent is a violation of the FDCPA under 15 U.S.C. § 1692g(b).
   e. Defendant Rushmore made threats of foreclosure; alleged delinquency and default by Plaintiff on the Loan.
   f. Repeated assertions by Rushmore that the Plaintiff owed corporate advances and other administrative expenses on the Loan.
   g. Continued reporting by Rushmore to credit bureaus that Plaintiff was or is 60-90 days late on payments and reporting of a monthly loan payment in excess of the actual monthly payment owed.
   h. Repeated failure of Rushmore to correct the Loan account to conform to the court approved Loan Modification constitute a pattern of abusive and bad faith actions demonstrating a pattern of conduct in violation of 15 U.S.C. §1692 (f).
   i. The number of complaints and lawsuits as set forth in Complaint ¶'s 47,48 as to Rushmore further show a pattern of abusive and bad faith actions of Rushmore in servicing mortgage loans like Plaintiffs which demonstrate a pattern of abusive and bad faith actions and a pattern of conduct in violation of 15 U.S.C. §1692 (f).

95. To the best of Plaitniff's knowledge Rushmore actions set forth in the preceding paragraph as to Plaintiff's delinquency and balance owed on the Loan continued thru February or March 2016 or later.

96. As a result of the foregoing violations of the FDCPA, Defendant Rushmore is liable to Plaintiff declaratory judgment that Defendant's conduct violated the FDCPA, actual damages, statutory damages, and costs and attorneys fees pursuant to 15 U.S.C. §1692k.

FIFTH CLAIM- VIOLATION OF RESPA

97. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs. This claim is asserted against Rushmore and SPS.

98. Under the provisions of RESPA, 12 U.S.C. §2605 (e) a loan servicer is required within 60 days to respond to a qualified written request by a borrower and make appropriate corrections to the borrower's account.

99. Under the provisions of RESPA, 12 U.S.C. §2605e as implemented by Regulation X, 12 CFR §1024 et. seq, a mortgage servicer is required to:

    a. Provide an accurate payoff balance upon request of a borrower as stated in §1024.35(b)(6) and §1026.36(c)(3)

    b. Properly credit a payment to principal, interest and escrow under the terms of the mortgage loan or applicable law as stated in §1024.3(b)(2).

    c. Credit a payment from a borrower on the date of receipt as stated in §1024.35(b)(3)

    d. Not issue a notice of intent to foreclose unless a borrower is delinquent by more than 120 days on payment of the Loan as stated in §1024.41(f)(1)(i) and §1024.35(b)(9).

e. Provide the borrower with an investigation and response as to errors identified by the borrower no later than 45 days (which includes any permitted extensions for a response) after receipt of the notice of error as provided for in §§1024.35(e)(1) and (3).

100. Rushmore failed to provide Plaintiff with an accurate payoff statement although being advised of inaccuracy in a payoff statement made to Plaintiff in a letter dated October 8, 2015 which failure is a violation of 12 CFR §1026.36(c)(3).

101. Rushmore consistently failed to timely credit payments by Plaintiff on the Loan to her Loan account commencing on or about October 2012 and continuing until February or March 2016 which failure is a violation of 12 CFR §1026.36(c)(1).

102. Rushmore failed to provide any corrections to the Loan account of Plaintiff in response to the notice of error of October 21, 2015 and its inadequate and incomplete response of January 19, 2016 was provided to Plaintif more than 99 days after receipt of the Notice of Error of October 25, 2015. The inadequate as well as untimely responses of Rushmore are both violations of 12 U.S.C.§ 2605(e) and 12 CFR §1235(e)(1) and (3).

103. As a result of the foregoing actions of Rushmore as to Plaintiff and Rushmore's pattern and practice of non-compliance with servicing requirements for mortgage loans, Plaintiff under the provisions of 12 U.S.C. §2605(f) is entitled to actual and statutory damages as well as attorney fees and costs as follows:

a. Statutory damages in the amount of $2,000 as to Rushmore

b. Actual damages to be determined at trial but estimated to be $6,000.

c. Attorney fees and costs pursuant to 12 U.S.C. §2605(f)(3).

d. Punitive damages for physical and emotional distress in an amount to be determined but which damages exceed $75,000.

SIXTH CLAIM-VIOLATION OF TRUTH IN LENDING ACT

104. Plaintiff reiterates and incorporates all allegations and statements set forth in the preceding Paragraphs. This claim is asserted against Rushmore.

105. Under the provisions of TILA, 15 U.S.C. §§1640 and 1641, as implemented by Regulation Z, 12 CFR §1026.36 (c)(3) a servicer is required to provide an accurate payoff statement to a borrower upon request for such statement within 7 days of the request or within a reasonable time if there is some circumstances preventing the issuance of the statement in 7 days.

106. Rushmore has failed to timely provide and accurate payoff statement to Plaintiff since receiving her request in September 2015 and has continued to fail to issue an accurate payoff statement despite being specifically made aware of errors in Rushmore's payoff calculation of October 8, 2016 by Plaintiff or Plaintiff's representative on at least 3 separate written communications.

107. Rushmore has also failed to timely and accurately apply Plaintiff's payments and properly process Plaintiff's loan payments for the Loan since approximately April 2013 until February or March 2016 as required by Regulation Z, 12 CFR §1026.(c)(1) in that Rushmore

a. Lost monthly payments made by Plaintiff in August 2015 and never notified Plaintiff that the payment was not received.
b. Placed monthly payments in the Loan suspense account and applied portions of the payment to alleged escrow shortages which shortages were incorrect and failed to notify Plaintiff of the payments to the suspense account.

c. Failed to either timely credit payments to the Loan account for Plaintiff's replacement payments for lost payments by Rushmore or else has not timely forwarded the payments to the new servicer for the Loan, SPS.

108. Rushmore's TILA violations as set forth in this cause of action, and in similar cases and complaints referenced in Complaint ’s 47-48 herein, have been intentional, reckless and repetitive and demonstrate a pattern and practice of non-compliance with servicing requirements for residential loans, including Plaintiffs, as to timely correction of ruinous accounting of mortgage loan information.

109. Rushmore has been given a reasonable opportunity to cure such failures to comply, and has repeatedly failed to do so.

110. As a result of the foregoing actions of Rushmore, Plaintiff under the provisions of 15 U.S.C. §1640 is entitled to actual and statutory damages as well as attorney fees and costs.

WHEREFORE, Plaintiff prays that the court enter findings as follows:

a. Grant Plaintiff a judgment and damages and attorney fees and cost for breach of contract by Rushmore and BCI due to their failure to remove the corporate advances and other fees on the Loan account as provided for in the Settlement and for Rushmore's improper threats assertions of a delinquency, acceleration of payment and default under the terms of the default clause of the mortgage contract when Plaintiff was current on the Loan.

b. Grant a declaratory judgment that Rushmore's conduct in the negligent accounting and reporting of debt owed by Plaintiff and the demands for payment of alleged delinquency on the Loan violated provisions of the FDCPA 15 U.S.C. §§ 1692e(2)(A), 1692f(1) and 1692g(b)

c. Award Plaintiff actual and statutory damages for Rushmore's FDCPA violations in the amount of $1,000 statutory damages for Rushmore and $7,000 actual damages pursuant to 15 U.S.C. § 1692k(1) and pursuant to 15 U.S.C. § 1692k.

d. Grant a declaratory judgment that Rushmore violated RESPA 15 U.S.C. §2605(e).

e. Award Plaintiff actual damages of $7,000 and statutory damages of $4,000 for Rushmore's prevalent and repeated violations of RESPA 12 U.S.C. §2605(e) and failure to correct the errors noted by Plaintiff with the Loan account.

f. Grant a judgment and award damages in favor of Plaintiff for her emotional distress caused by Rushmore's and BCI's knowing, willful and repetitive disregard of the Settlement and Loan Mod terms and negligent servicing of the Loan for over three years with the amount of damages that are believed to exceed $50,000 but are to be determined at trial.

g. Award Plaintiff punitive damages for the knowing and reckless actions of Rushmore's repeated violations of the FDCPA and RESPA in its servicing practices causing Plaintiff extreme emotional distress, anxiety and fear of losing her home with damages to be determined at trial.

h. Award Plaintiff her costs and attorney fees for Rushmore's violations of RESPA and the FDCPA as set forth herein and as provided for by 12 U.S.C. § 2605(f)(3) and 15 U.S.C. §1640(a)(3).

i. Award Plaintiff any other damages or relief the Court determines is fair, reasonable and equitable based upon the Complaint.

Respectfully Submitted

/s/Charles J. Roedersheimer__________

Charles J. Roedersheimer #0020273
1340 Woodman Drive
Dayton, OH 45320
937-252-2030
937-252-9425 Fax
charles@thompsonanddeveny.com
Attorney for Plaintiff

Jury Trial Demanded

SETTLEMENT AGREEMENT
AND
RELEASE OF CLAIMS

1. PARTIES -- This Settlement Agreement and Release of Claims (the "Agreement") is made and entered into on the last day set forth on the signature page by Luz G. Munoz ("Claimant") and Quantum Servicing Corporation ("Servicer"); and Arch Bay Holdings, LLC – Series 2010B ("Creditor"); (collectively the "Parties") for the purpose of resolving by compromise settlement, all claims, liabilities, and disputes arising out of a dispute between the Parties.

2. RECITALS -- This Agreement is entered into with reference to the following facts:

A. Claimant is the owner of the real property and improvements located at 3955 Klepinger Road, Dayton, Ohio 45416 (the "Property").

B. On March 15, 2000, Claimant executed a fixed rate consumer note in the principal amount of $102,320.50 payable to National City Bank (the "Note"). As security for payment of the Note, Claimant executed a mortgage, which granted National City Bank a lien upon the Property ("Mortgage"). The Mortgage was recorded in the Montgomery County Recorder's Office on March 17, 2000. The Note and Mortgage were subsequently acquired by Creditor. Servicer has serviced the loan since June 18, 2010.

C. On May 9, 2005, Claimant filed bankruptcy under Chapter 13 of Title 11 of the United States Code, which case was assigned Case No. 05-34522 in the Southern District of Ohio Bankruptcy Court (the "Bankruptcy Action").

D. On August 27, 2010, Claimant received a discharge in the Bankruptcy Action. On October 5, 2010 the Bankruptcy Action was closed.

E. On July 11, 2011, a foreclosure action was commenced against Claimant in the Montgomery County Court of Common Pleas, which case was assigned Case No. 2011 CV 04940 (the "Foreclosure Action"). Claimant maintains the Foreclosure Action was commenced in violation of the discharge injunction. On October 11, 2011, the Foreclosure Action was dismissed.

F. Claimant reopened the Bankruptcy Action and on March 15, 2012, filed an adversary complaint against Creditor and Servicer asserting various claims (the "Adversary Proceeding"). Collectively all facts constitute the "Dispute."

G. The Parties, without in any way conceding the validity or sufficiency of any claim or contention of any or all the Parties, now desire to fully compromise, finally settle, and fully release all claims, disputes and differences related to the Dispute.

3. AGREEMENTS, RELEASES, AND PROMISES -- In consideration of the facts, acknowledgements, agreements, general release and promises contained in this Agreement, and for other good and valuable consideration, the receipt of which is acknowledged by each party hereto, the Parties promise and agree as follows:

EXHIBIT
A

A. On or before April 18, 2012, Claimant shall execute a certain Loan Modification Agreement dated March 2, 2012, reducing the unpaid principal balance to $66,150.00, fixing the interest rate at 5.5%, and extending the maturity date to March 1, 2022 (the "Loan Modification Agreement"): and shall return the executed Loan Modification Agreement to Servicer, through its counsel: Stacey A. O'Stafy, Esq. at Manley Deas & Kochalski, LLC, 55 Public Square, Suite 1828, Cleveland, OH 44113.

B. As of April 11, 2012, there is $972.17 in suspense. Upon receipt of the signed Loan Modification Agreement, Servicer shall apply the funds in suspense to the April 1, 2012 mortgage payment.

C. On or before April 18, 2012, Claimant shall execute and return this Agreement to Servicer, through its counsel at the address listed in 3(A).

D. On or before April 18, 2012, Claimant shall cause the Adversary Proceeding to be dismissed.

E. On or before May 1, 2012, Claimant shall pay the May 1, 2012 mortgage payment.

F. Claimant shall provide to Servicer, through its counsel at the address in Section 3(A), a tax identification number and completed W-9 form for Thompson & DeVeny Co. LPA.

G. Upon completion of each and every action set forth in 3(A)-(F), Servicer agrees t

Redacted

sustained in connection with the Dispute.

H. Not later than ten (10) business days after receipt of both the fully executed Loan Modification Agreement and timely receipt of the May 1, 2012 mortgage payment, Servicer shall correct Claimant's credit reporting status related to the account that is the basis of the Dispute. If the account is still incorrectly reflected on Claimant's credit history, Claimant shall notify Servicer of the fact. Servicer shall work with Claimant to correct the reporting with the understanding Servicer makes no warranty as to the timeframe in which it will be corrected. Upon notice from Claimant, Servicer will take the necessary additional steps to correct the reporting. Claimant understands that Servicer is in no way responsible for the acts or omissions of the third-party credit reporting bureaus and as such makes no warranty or representation as to whether the reporting will be corrected by the third party credit bureaus or the time frame within which it will be corrected by the third-party credit bureaus.

I. Claimant is on a repayment plan with the Montgomery County Treasurer to pay delinquent real estate taxes. Claimant agrees to remain on the repayment plan until the delinquent taxes are paid in full. Failure to comply with the repayment plan shall constitute a default under this Agreement.

J. The Claimant agrees to release and forever discharge Servicer and the Creditor from any and all state or federal claims, demands or causes of action asserted, existing or claimed against either or all of them by reason of, arising from or related to the Dispute, which may exist from the beginning of time to the date of this Agreement.

K. The Parties do further release and forever discharge each other and each of their heirs, beneficiaries, parents, subsidiaries, affiliates, officers, directors, shareholders, partners, attorneys, trustees, affiliates, predecessors, successors, representatives, insurers, assignees, agents, employees, administrators, and all persons acting by, through or in any way on behalf of the Parties of and from any and all claims, debts, defenses, liabilities, costs, attorney's fees, actions, suits at law or equity, demands, contracts, expenses, damages, whether general, specific or punitive, exemplary, contractual or extra-contractual, and causes of action of any kind or nature which the Parties may now have or claim to have against each other, including without limitation all claims or causes of action which in any way, directly or indirectly, or in any other way arises from or are connected with or which could have been asserted in connection with the Dispute, and any claim, cause of action, damages, promises or demands which could have been asserted in the Dispute, which may exist from the beginning of time to the date of this Agreement; and the Parties further covenant and agree that this Agreement may be pleaded or asserted by or on behalf of any of the Parties as a defense and complete bar to any action or claim that may be brought against or involving the Parties by anyone acting or purporting to act on behalf of any of the Parties with respect to any of the matters within the scope of this Agreement excepting only the obligations of the Parties under this Agreement. This full and final release shall cover and shall include and does cover and does include any and all known or future damages not now known to any of the Parties hereto, but which may later develop or be discovered, including the effects and consequences thereof, and including all causes of action therefore which arise out of the same facts as were alleged or could have been alleged in the Dispute up to the date of this Agreement.

L. This Agreement is entered into by the Parties for the purpose of compromising and settling matters in the Dispute between and among them. This Agreement does not constitute, and shall not be construed as, an admission by any Party of the truth or validity of any claims asserted or contentions advanced by any other party.

M. It is expressly understood by the Parties that except as specifically provided in this Agreement, each Party shall bear its own costs in connection with the Dispute and this Agreement, and the Parties waive and release any claims they otherwise have or may have had to such costs and attorney's fees.

N. This Agreement is entered into in the State of Ohio and the Agreement and any rights, remedies, or obligations provided for in this Agreement, shall be construed and enforced in accordance with the laws of the State of Ohio.

O. This Agreement shall be construed as if all Parties jointly prepared it, and any uncertainty or ambiguity in the Agreement shall not be interpreted against any one Party.

P. If any action is brought to enforce this Agreement, or is brought in connection with any dispute arising out of this Agreement or the claims which are the subject of this Agreement, the prevailing Party or Parties shall be entitled to recover damages, fees and other costs incurred in such litigation which they may prove are the direct and proximate result of any breach hereof in additional to any other relief which that Party or Parties may be entitled to by law.

Q. The provisions of this Agreement are severable. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable or void for any reason whatsoever, each such portion, provision or part shall be severed from the remaining portions, provisions or parts of this Agreement and shall not affect the validity or enforceability of any remaining portions, provisions or parts.

R. The specific terms of this Agreement will be kept confidential and the Parties and their counsel agree not to disclose or publish the terms, conditions or covenants referred to in this Agreement, except as follows:

i. As is required to comply with any applicable rules, statutes or regulations of any governmental agency; or

ii. As may be reasonably necessary to conduct any litigation arising out of or concerning this Agreement.

iii. In the case of Servicer, to the client for whom it services the Mortgage, to its accounting, tax and legal advisors, to its corporate parents, to any state or federal regulatory agency, and to any rating agency.

iv. In the case of Claimant, to her accounting, tax and legal advisors or her immediate family. Claimant shall be liable for disclosures made by the foregoing persons.

S. This Agreement shall not be altered, amended, or modified by oral representation made before or after the execution of this Agreement. All modifications must be in writing and duly executed by all Parties.

T. Parties represent and warrant to each other that each is the sole and lawful owner of all right, title and interest in and to every claim and other matter which each releases in this Agreement and that they have not previously assigned or transferred, or purported to do so, to any person or other entity any right, title or interest in any such claim or other matter. In the event that such representation is false, and any such claim or matter is asserted against either Party by anyone who is the assignee or transferee of such a claim or matter, then the Party who assigned or transferred such claim or matter shall fully indemnify, defend and hold harmless the Party against whom such claim or matter is asserted and its successors from and against such claim or matter

U. The Parties acknowledge that this Agreement is executed voluntarily by each of them, without duress or undue influence on the part of, or on behalf of any of them. The Parties further acknowledge that they have or had the opportunity for representation in the negotiation for, and in the performance of, this Agreement by counsel of their choice and that they have read this Agreement, and have had it fully explained to them by their counsel and that they are fully aware of the contents of this Agreement and its legal affect.

V. This Agreement shall be effective as a full and final accord and satisfaction and release of each matter in connection with those matters set forth herein above.

W. This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, agents, representatives, successors, and assignees.

X. This Agreement constitutes a single, integrated, written contract expressing the entire understanding and agreement between the Parties and the terms of the Agreement are contractual and not merely recitals.

Y. There is no other agreement, written or oral, expressed or implied, between the Parties with respect to the subject matter of this Agreement and the Parties declare and represent that no promise, inducement or other agreement not expressly contained in this Agreement has been made conferring any benefit upon them.

Z. This Agreement may be executed in counterpart facsimile signatures and all such counterparts shall constitute a single form of this Agreement.

AA. The Parties acknowledge that this Agreement is executed with their understanding that it is in settlement of a dispute involving a refinance of a residential home mortgage loan and in further resolution and settlement of a mortgage loan debt that was included in Debtor's Chapter 13 bankruptcy case from which Claimant received a discharge on August 27, 2010.

IN WITNESS WHEREOF, the Parties hereto have caused this document to be executed on the last day set forth below.

Redacted

Quantum Servicing Corporation

By: Redacted

Redacted

Arch Bay Holdings, LLC – Series 2010B
By: Quantum Servicing Corporation, its servicing agent and attorney in fact

Redacted

Redacted

Luz G. Munoz, Claimant

RUSHMORE
LOAN MANAGEMENT
SERVICES

P.O. Box 55004
Irvine, CA 92619
888.504.6700 toll free
949.341.2200 fax
www.rushmorelm.com

January 17, 2012

Charles J. Roedersheimer
1340 Woodman Drive.
Dayton, OH 45432

Re: Borrower: Muoz, Luz
Property Address: 3955 Klepinger Road. Dayton, OH 45416
Loan Number: [redacted]3915

Dear Mr. Roedersheimer:

We are writing in response to your letter we received regarding the payments received on the above referenced loan and verification of the taxes being escrowed.

Our records indicate the loan is due for January 1, 2013. During the month of October 2012 our system was in the process of completing the modification changes for this loan. All payments received from the borrower from July through October 2012 have been applied accordingly. The last payment received and posted was on December 12, 2012 and was applied towards the December 1, 2012 payment. I have enclosed a payment history for your convenience.

In regards to the taxes, it was not indicated taxes were included in the bankruptcy plan. It was confirmed by the county the homeowner was on a payment plan with them but had defaulted; therefore we paid the delinquent taxes due. The loan was recently converted to be escrowed for taxes and insurance due to the permanent modification in September 2012.

The owner of the loan is Arch Bay Holdings, LLC-Series 2010-B, 3212 Michelson Drive, Irvine, CA 92677.

We trust this letter responds to your inquiry. If you have any questions, please contact us at our toll free number (888) 699-5600.

Sincerely,

Valerie Villanueva
Compliance Analyst
Rushmore Loan Management Services

PETITIONER'S
EXHIBIT
B

RUSHMORE LOAN MANAGEMENT SERVICES

P.O. Box 55004
Irvine, CA 92619
888.504.6700 toll free
949.341.2200 fax
www.rushmorelm.com

REQ BY VV2

CUSTOMER ACCOUNT ACTIVITY STATEMENT

DATE 01/17/13
PAGE 1

LUZ MUNOZ
PO BOX 26432
DAYTON OH 45426

THANK YOU FOR CONTACTING RUSHMORE LOAN MANAGEMENT SERVICES

LOAN NUMBER: 3915

CURRENT ACCOUNT INFORMATION

DATE PAYMENT DUE	TOTAL PAYMENT AMOUNT	PRINCIPAL & INTEREST PAYMENT	LOAN INTEREST RATE	CURRENT PRINCIPAL BALANCE	ESCROW BALANCE
01-01-13	907.00	717.90	5.50000	66,150.00	456.20

ACTIVITY FOR PERIOD 01/01/12 - 12/31/12

PROCESS DATE	DUE DATE	TRANSACTION CODE	TRANSACTION DESCRIPTION	TRANSACTION AMOUNT	PRIN. PAID/ BALANCE	INTEREST	ESCROW PAID/ BALANCE	OTHER AMOUNT	OTHER CODE/DESCRIPTION
12-31-12	00-00	630	ATTORNEY ADVANCES	25.00	0.00	0.00	0.00		
12-12-12	12-12	173	PAYMENT	872.13	0.00	806.29	189.10	71.79	1 LATE CHARGES
								195.05-	SUSPENSE
							456.30		NEW PRINCIPAL/ESCROW BALANCES
12-11-12	12-12	152	LATE CHARGE ASSESSMENT	0.00	0.00	0.00	0.00	71.79-	1 LATE CHARGES
11-05-12	11-12	173	PAYMENT	872.15	0.00	717.90	154.25		
							267.20		NEW PRINCIPAL/ESCROW BALANCES
10-24-12	10-12	168	REPAY OF ESCROW ADVANCE	0.00	0.00	0.00	41.30-	41.30	ESCROW ADVANCE ADJ
10-24-12	10-12	173	PAYMENT	0.00	0.00	717.90	154.25	872.15-	SUSPENSE
							112.95		NEW PRINCIPAL/ESCROW BALANCES

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CUSTOMER ACCOUNT ACTIVITY STATEMENT

DATE 01/17/13
PAGE 2

REQ BY VV2

LUZ MUNOZ
LOAN NUMBER: 3915

ACTIVITY FOR PERIOD 01/01/12 - 12/31/12

PROCESS DATE	DUE DATE	TRANSACTION CODE	TRANSACTION DESCRIPTION		EFFECTIVE DATE OF TRANSACTION
TRANSACTION AMOUNT	**PRIN. PAID/ BALANCE**	**INTEREST**	**ESCROW PAID/ BALANCE**	**OTHER AMOUNT**	**OTHER CODE/DESCRIPTION**
10-18-12	10-12	143	ADJUSTMENT		
NEW DUE DATE: 10-01-12, OLD DUE DATE: 08-01-12					
10-16-12	08-12	161	ESCROW ADVANCE		
41.30	0.00	0.00	41.30		
10-16-12	06-13	351	HAZARD INSURANCE DISBURSEMENT		
658.30-	0.00	0.00	658.30-		
			41.30-		NEW PRINCIPAL/ESCROW BALANCES
10-11-12	08-12	173	PAYMENT		
872.15	0.00	0.00	0.00	872.15	SUSPENSE
09-17-12	07-12	173	PAYMENT		
0.00	0.00	717.90	154.25		
			617.00		NEW PRINCIPAL/ESCROW BALANCES
09-17-12	06-12	173	PAYMENT		
0.00	0.00	717.90	154.25		
			462.75		NEW PRINCIPAL/ESCROW BALANCES
09-17-12	05-12	173	PAYMENT		
0.00	0.00	717.90	154.25		
			308.50		NEW PRINCIPAL/ESCROW BALANCES
09-17-12	04-12	173	PAYMENT		
0.00	0.00	717.90	154.25	3,488.60-	SUSPENSE
			154.25		NEW PRINCIPAL/ESCROW BALANCES
09-14-12	04-12	145	ADJUSTMENT		
0.00	0.00	0.00	0.00	9,078.43-	ESCROW ADVANCE ADJ
09-11-12	04-12	173	PAYMENT		
872.15	0.00	0.00	0.00	872.15	SUSPENSE
09-04-12	04-12	143	ADJUSTMENT		
NEW DUE DATE: 04-01-12, OLD DUE DATE: 01-01-11					

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Irvine, CA 92619
888.504.6700 toll free
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REQ BY VV2

CUSTOMER ACCOUNT ACTIVITY STATEMENT

DATE 01/17/13
PAGE 3

LUZ MUNOZ
LOAN NUMBER: 53916

ACTIVITY FOR PERIOD 01/01/12 - 12/31/12

PROCESS DATE	DUE DATE	TRANSACTION CODE	TRANSACTION DESCRIPTION				EFFECTIVE DATE OF TRANSACTION
TRANSACTION AMOUNT	**PRIN. PAID/ BALANCE**	**INTEREST**	**ESCROW PAID/ BALANCE**	**OTHER AMOUNT**	**OTHER CODE/DESCRIPTION**		
09-04-12	01-11	143	ADJUSTMENT				
0.00	23,395.70	0.00	0.00				
	66,150.00				NEW PRINCIPAL/ESCROW BALANCES		
08-31-12	00-00	631	PROPERTY PRESERVATION				
1.50	0.00	0.00	0.00				
08-31-12	00-00	631	PROPERTY PRESERVATION				
15.00	0.00	0.00	0.00				
08-27-12	01-11	161	ESCROW ADVANCE				
985.91	0.00	0.00	985.91				
08-27-12	12-11	327					
50.00-	0.00	0.00	50.00-				
			9078.43-		NEW PRINCIPAL/ESCROW BALANCES		
08-27-12	12-11	320					
935.91-	0.00	0.00	935.91-				
			9028.43-		NEW PRINCIPAL/ESCROW BALANCES		
08-02-12	01-11	173	PAYMENT				
872.15	0.00	0.00	0.00	872.15	SUSPENSE		
07-20-12	01-11	173	PAYMENT				
872.15	0.00	0.00	0.00	872.15	SUSPENSE		
07-05-12	01-11	173	PAYMENT				
1,067.20	0.00	0.00	0.00	1,067.20	SUSPENSE		
07-03-12	01-11	145	ADJUSTMENT				
0.00	0.00	0.00	0.00	8,092.52	ESCROW ADVANCE ADJ		
07-03-12	00-00	745	CORP. ADVANCE ADJUSTMENT				
8,671.74	0.00	0.00	0.00				
07-02-12	01-11	142	LOAN SETUP				04-27-12
0.00	89,545.70-	0.00	0.00				
	89,545.70				NEW PRINCIPAL/ESCROW BALANCES		

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888.504.6700 toll free
949.341.2200 fax
www.rushmorelm.com

PAYOFF STATEMENT

October 08, 2015

Luz Munoz
Po Box 26432
Dayton, OH 45426

Loan No: -----15
Loan Type: Conventional
Noteholder: Banc Of California/rmc

RE:
Luz Munoz

PO Box 26432
Dayton OH 45426

Property Address:
3955 Klepinger Rd
Dayton OH 45416

****
ONLY CERTIFIED FUNDS WILL BE ACCEPTED FOR THE PAYOFF SHOWN BELOW.
****

These figures are good to October 31, 2015.
This loan is due for the August 01, 2015 payment.

The current total unpaid Principal Balance is:	$ 48,978.18
Interest at 5.50000%	894.85
Escrow/Impound Overdraft	2,200.69
Unpaid Late Charges	573.03
Recoverable Corporate Advances	8,475.24
Property Inspection	16.50
Short Interest	.00
* * * * TOTAL AMOUNT TO PAY LOAN IN FULL * * * * * $	61,138.49
2nd Principal Balance	.00
Deferred Interest Balance	.00

The total unpaid Principal Balance includes the 2nd Principal Balance, Deferred Interest Balance, Principal Reduction Amount (HAMP incentive) and/or a Forbearance Amount.

If the loan is less than 30 days past due the Principal Reduction Amount i deducted from the total amount due.

Funds received on or after October 31, 2015 will require an additional $ 7.38 interest per Day.

Payoff funds being sent by mail must be directed to:

Rushmore Loan Management Services LLC
Attn: Payoff Department
15480 Laguna Canyon Road Suite 100
Irvine, CA 92618

[redacted]
tabbies
EXHIBIT
C

NMLS ID: 185729

EQUAL HOUSING LENDER

RUSHMORE
LOAN MANAGEMENT SERVICES

P.O. Box 55004
Irvine, CA 92619
888.504.6700 toll free
949.341.2200 fax
www.rushmorelm.com

These figures are subject to final verification by the Noteholder. Figures may be adjusted if any check/money order previously received is rejected by the institution upon which it was drawn.

Issuance of this statement does not suspend the contract requirement to make the mortgage payments when due. A late charge of $ 71.79 will be assessed 10 days after a current payment is due and should be added to the payoff total if received after that time. All past due amounts are included in the above figures.

If this property is sold, please provide the seller's forwarding address.

PAYOFF DEPARTMENT

XP011-060/N26

Thompson and DeVeny Co., L.P.A.
Attorneys at Law

Lester R. Thompson
Dain N. DeVeny

Charles J. Roedersheimer [1]
Andrew J. Zeigler [2]
John F. Kennel [3]

1340 Woodman Drive
Dayton, Ohio 45432
Tel: (937) 252-2030
Fax: (937) 252-9425
[1]also admitted in West Virginia
[2]also admitted in Pennsylvania
[3]also admitted in Massachusetts

October 21, 2015

Rushmore Loan Management Services
15480 LaGuna Canyon Road, Suite 100
Irvine, California 92618

Certified Mail Tracking #: 7013 0600 0000 8272 1104

RE: Client: Luz G. 2015 Munoz
Account Number: [illegible]915
Property: 3955 Klepinger Road, Dayton, OH 45416
Mailing Address: P.O. Box 26432, Dayton OH 45426

Dear Customer Service/Research Department Representative:

Please treat this letter as notice of error and dispute under the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2605(e), and Truth in Lending Act ("TILA"), 15 U.S.C. §§1641(f)(2) and (g), as implemented by Dodd-Frank Consumer Protections Act regulations, 12 CFR Sections 1024.35 et. seq. I am disputing information and charges to the referenced account and requesting a review and correction. I am also requesting a payment history on this account from January 2012 to present because of the numerous errors noted and also identification of the current owner of the note and mortgage. The errors in the account that are disputed are as follows:

1.Failure to record payments in August, September 2015
2.Misapplication of payment as to principal, interest and escrow
3.Excessive charges continue to be listed with corporate advances identified to the loan account of over $8,475.24.
4.Late recorded payments
5.Imposition of unexplained or unreasonable charges to account for corporate advances that were waived by loan modification on this account. See 3 above
6. Erroneous and untimely transfer of account information from prior servicer Quantum to Rushmore and continued incorrect accounting from the erroneous transfer of account.
7. Failure to provide a monthly billing statement for the account to borrower.

Please be sure to include explanatory indexes and tables for codes and abbreviations if reports provided contain codes or abbreviations to reference transactions. If we do not have a notice of your intent to respond in five (5) days and a response with the requested information within thirty(30) days of the date of receipt of this request our client will pursue claims as authorized under the referenced RESPA and TILA provisions and the implementing regulations of 12 CFR Section 1024 et. seq.

Thank you for taking the time to acknowledge and answer this request. I have included an authorization from the borrower to provide the requested information to me.

Sincerely,
Charles J. Roedersheimer

Encl: Release of Information

[redacted]
EXHIBIT
D

RUSHMORE LOAN MANAGEMENT SERVICES™
15480 Laguna Canyon Road
Suite 100
Irvine, CA 92618
888.699.5600 toll free
949.341.0777 local
949.341.2200 fax
www.rushmorelm.com

January 19, 2016

Charles J. Roedersheimer
Thompson and DeVeny Co., L.P.A
1340 Woodman Drive
Dayton, OH 45432

RE: Mortgagor – Luz Muñoz
Property Address – 3955 Klepinger Rd, Dayton, OH 45416
Loan Number – 15

Dear Charles J. Roedersheimer:

Rushmore Loan Management Services LLC ("Rushmore") is writing in response to your correspondence, dated December 4th, 2015, and received by our office December 8th, 2015, regarding the mortgage loan account referenced above for Luz Munoz. Please note, Rushmore is the servicer of the loan, and the owner of the Loan is Banc of California, National Association fka Pacific Trust Bank.

Rushmore conducted a thorough investigation into the matters asserted in your complaint, and we appreciate the opportunity to provide you with a written response. Rushmore does not feel that an error has been made on your account. Here are the reason(s) why Rushmore concluded that your loan is in fact being serviced correctly:

All inquiries are important to us, and we aim to reply to each one that we receive, and we are providing this response now. By way of background, the servicing responsibilities for Luz Munoz's loan transferred from Quantum Servicing Corporation to Rushmore effective June 30th, 2012.

First, regarding the failure to record payments in August and September 2015, Rushmore did receive an attempted payment for this loan on August 31, 2015 (check #126 in the amount of $906.61). This payment was returned on the same date, due to an incorrect payee. Rushmore could not have applied the payment to Luz Munoz's account due to the payee issue. No other payments were received for this loan during August or September of 2015.

Second, regarding the concerns related to misapplication of payments to principal, interest, escrow, and/or late charges, our records reflect that the principal & interest (P&I) payment for this loan has been $717.90 since the date Rushmore acquired the loan, and that amount has not changed. Attached, please find the payment history of the account as of December 31st, 2015, which validates this information. The payment history reflects a complete payment history for the period that Rushmore has serviced the loan. Late fees are assessed any time the contractual payment is received after the expiration of any grace period, as indicated in the Note.

Rushmore Loan Management Services is a debt collector, who is attempting to collect a debt. Any information obtained will be used for that purpose. If this debt is in or has been discharged in a bankruptcy proceeding, be advised this communication is not an attempt to collect the debt against you. Please note, however, we reserve the right to exercise the legal rights only against the property securing the original obligation..

[redacted]
EXHIBIT
E

RUSHMORE LOAN MANAGEMENT SERVICES™
15480 Laguna Canyon Road
Suite 100
Irvine, CA 92618
888.699.5600 toll free
949.341.0777 local
949.341.2200 fax
www.rushmorelm.com

Furthermore, this payment history reflects:

- When payments were received
- How the payments were applied to the loan (Principal, Interest, etc.)
- Any disbursements made from the loan, including, but not limited to, disbursements for taxes, insurance, property inspections, brokers price opinions (BPOs), and legal fees
- A description for each transaction, with running balances of the unpaid principal and escrow accounts
- The date fees and charges were assessed, if any
- Any amounts paid towards fees
- Any waivers/reversals of fees

The third item mentioned in your correspondence relates to whether monthly billing statements were provided for the account to the borrower. Rushmore's records show that monthly billing statements have been provided to the borrower without interruption, from the time Rushmore began servicing the loan. Attached please find the most recent billing statement, which reflects the current amount due, along with other information. Also, it provides a breakdown of any fees assessed, including any lender paid expenses or corporate advanced fees.

Fourth, a review of the loan modification signed on April 11th, 2012 does not show that the corporate advances were waived or forgiven. According to our review of the file, and of the documentation received, shows that the loan balance prior to the servicing transfer was $89,545.70. **After the loan was transferred to Rushmore, we adjusted the balance down to $66,150.00 to match the modification agreement**. This amounted to a reduction in balance of $23,395.70. We did not find any documentation to establish that the corporate advances would be waived, or that they were already included in the calculations. If you and/or the borrower have such documentation, please send it to us for further review.

Furthermore, our records reflect that a Payoff Statement good through October 31st, 2015 was provided to the borrower on October 8th, 2015. Attached to this correspondence is an updated Payoff Statement, with current numbers.

Please note, as a consumer you have the right to request the investigation documents relied upon to determine our conclusion with regard to the Notice of Error that you submitted. Enclosed we have included those documents for your records.

Should you have any general questions other than those referenced in the correspondence, please contact:

Customer Service Department
Monday through Thursday, 6:00 a.m. to 7:00 p.m. Pacific
Friday, 6:00 a.m. to 6:00 p.m. Pacific
Toll-free number 1.888.504.6700

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Sincerely,

Jesús Santos
Compliance
Rushmore Loan Management Services LLC

Enclosure(s) 4
By FedEx

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EQUAL HOUSING